

REMARKS

Claims 1, 3, 5, 9, and 14-18 stand rejected under 35 U.S.C. §102(b) and/or 35 U.S.C. §103(a) as being unpatentable over JP 08-227541 (hereinafter JP '541). Claims 14-18 have been cancelled, without prejudice, thereby rendering this rejection moot with respect to these claims. However, with respect to Claims 1, 3, 5 and 9, Applicants respectfully traverse this rejection.

Applicants respectfully submit that JP '541 fails to disclose or suggest all of the claimed features of the present recording medium. More specifically, JP '541 fails to disclose or suggest a recording medium that includes, *inter alia*, the combination of a first foundation layer, an initial layer, a functional layer, a second foundation layer, a roughness controlling layer, and a recording layer, where the first and second foundation layers are each made of one of the following materials: SiN, SiO₂, YSiO₂, ZnSiO₂, AlO or AlN, as defined in amended independent Claim 1.

In applying JP '541 against the previous version of independent Claim 1, the Examiner equated the SiN underlayer 2a of JP '541 with the claimed "first foundation layer," while equating the first Pt layer of the recording laminate structure 1 in JP '541 with the claimed "initial layer." Further, the Examiner equated the first Co layer of the recording laminate structure 1 in JP '541 with the claimed "functional layer," while also equating the second Pt layer of the recording laminate structure 1 in JP '541 with the claimed "second foundation layer." Finally, the Examiner also equated the second Co layer of the recording laminate structure 1 in JP '541 with the claimed "roughness controlling layer," while also equating the remaining Pt/Co layers of the recording laminate structure 1 in JP 08-227541 with the claimed "recording layer."

Applicants respectfully submit that the Examiner's interpretation of JP '541 is improper because the Examiner appears to have disregarded the claim features regarding the surface tension of the roughness controlling layer in relation to the second foundation layer. However, in order to expedite prosecution, Applicants have amended independent Claim 1 to recite that the first and second foundation layers are each made of a material selected from the group consisting of SiN, SiO₂, YSiO₂, ZnSiO₂, AlO and AlN.

Applicants respectfully submit that, even assuming *arguendo* that Applicants accepted the Examiner's interpretation of the layers of JP '541, this reference JP '541 fails to disclose or suggest, *inter alia*, a second foundation layer made of a material selected from the group consisting of SiN, SiO₂, YSiO₂, ZnSiO₂, AlO and AlN, as now defined in amended independent Claim 1. Instead, under the Examiner's interpretation of the second foundation layer of JP '541, this layer is made of Pt. Accordingly, for at least this reason, Applicants respectfully request the withdrawal of this §102/§103 rejection of independent Claim 1 and associated dependent Claims 3, 5 and 9.

Claims 1 and 3-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,596,366 to Ohno. Applicants respectfully traverse this rejection.

Applicants respectfully submit that the Ohno reference fails to disclose or suggest all of the claimed features of the present recording medium. More specifically, the Ohno reference fails to disclose or suggest a recording medium that includes, *inter alia*, the combination of a first foundation layer, an initial layer, a functional layer, a second foundation layer, a roughness controlling layer, and a recording layer, where the

first and second foundation layers are each made of one of the following materials: SiN, SiO₂, YSiO₂, ZnSiO₂, AlO or AlN, as defined in amended independent Claim 1.

Applicants respectfully submit that the Examiner's interpretation of the Ohno reference is improper because the Examiner appears to have disregarded the claim features regarding the surface tension of the roughness controlling layer in relation to the second foundation layer, as with JP '541. However, as mentioned above, in order to expedite prosecution, Applicants have amended independent Claim 1 to recite that the first and second foundation layers are each made of a material selected from the group consisting of SiN, SiO₂, YSiO₂, ZnSiO₂, AlO and AlN.

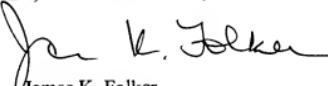
More specifically, Applicants respectfully submit that it is improper to interpret the single reflective layer 5 of Ohno as if it is divided into three different layers. Further, even assuming *arguendo* that the Examiner could equate the middle strata of the reflective layer 5 of Ohno (eventhough Applicants submit that no such strata is present) with the claimed "second foundation layer," the "middle strata" of Ohno is not made of a material selected from the group consisting of SiN, SiO₂, YSiO₂, ZnSiO₂, AlO and AlN, as now defined in amended independent Claim 1. Accordingly, for at least these reasons, Applicants respectfully request the withdrawal of this §103 rejection of independent Claim 1 and associated dependent Claims 3-9.

For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned attorney.

If a Petition under 37 C.F.R. §1.136(a) for an extension of time for response is required to make the attached response timely, it is hereby petitioned under 37 C.F.R. §1.136(a) for an extension of time for response in the above-identified application for the period required to make the attached response timely. The Commissioner is hereby authorized to charge any additional fees which may be required to this Application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069.

Respectfully submitted,
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By


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